



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

17 OCT 2006

Gary M. Cohen
125 Strafford Ave Ste 300
Strafford Building Number Three
Wayne, PA 19087

In re Application of KLAUDER :
U.S. Application No.: 10/506,708 :
PCT Application No.: PCT/US03/09667 :
Int. Filing Date: 28 March 2003 :
Priority Date Claimed: 29 March 2002 : DECISION
Attorney Docket No.: BENDS2 :
For: METHOD FOR DESIGNING :
GENERALIZED SPIRALS, BENDS, JOGS, :
AND WIGGLES FOR RAILROAD TRACKS :
AND VEHICLE GUIDEWAYS :

This is in response to applicant's "Petition Under 37 C.F.R. §1.78(a)(3)" filed 04 November 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), since applicant is seeking to add a benefit claim to both a prior filed nonprovisional application and prior filed provisional applications.

BACKGROUND

On 28 March 2003, applicant filed international application PCT/US03/09667, which claimed priority of an earlier United States application filed 29 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 29 September 2004.

On 07 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 04 November 2005, applicant filed the present petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

DISCUSSION

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

A petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

With regard to item (1) above, the requisite reference to the prior-filed applications has been included in an amendment to the first paragraph of the specification.

With regard to item (2) above, the requisite surcharge has been provided.

With regard to item (3) above, the petition states, "[T]he entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the filing of this Petition and the accompanying Amendment Pursuant to 37 C.F.R. §1.78(a)(3)(i), the date the claim was filed, was unintentional." This statement is interpreted as a statement that the entire delay between the date the claim was due under paragraphs 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is GRANTED.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional and provisional applications, accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed

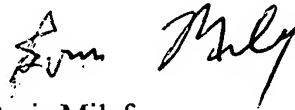
applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2128 for appropriate action on the amendment filed 04 November 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 and 35 U.S.C. 119(e) to the prior-filed nonprovisional and provisional applications.



Bryan Tung
PCT Legal Examiner
PCT Legal Office



Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/506,708	09/07/2004	2128	1655	BENDS2	3	17	1

Gary M Cohen
Strafford Building Number Three
Suite 300
125 Strafford Avenue
Wayne, PA 19087-3318

CONFIRMATION NO. 3553

CORRECTED FILING RECEIPT



OC000000020478264

Date Mailed: 09/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Louis T. Klauder JR., Newtown Square, PA;

Power of Attorney:

Gary Cohen--28834

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/09667 03/28/2003
which claims benefit of 60/368,952 03/29/2002
and claims benefit of 60/371,842 04/11/2002
and claims benefit of 60/388,859 06/17/2002
and claims benefit of 60/391,638 06/27/2002
and is a CIP of 10/311,613 12/17/2002 PAT 7,027,966
which is a 371 of PCT/US01/41074 06/20/2001
which claims benefit of 60/212,499
and claims benefit of 60/292,037 05/21/2001
and claims benefit of 60/294,288 05/31/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/506,708**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for designing generalized spirals, bends, jogs, and wiggles for railroad tracks and vehicle guideways

Preliminary Class

703

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER Title 35, United States Code, Section 184 Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).